

REMARKS

Claims 1 and 3-36 are pending. Claims 2 and 37-40 were cancelled previously by preliminary amendment.

Claims 1, 3-17 and 25-30 are cancelled due to a restriction requirement.

New claim 41 is added.

Claims 18, 20, 23, 24 and 31-36 are currently amended. These various amendments are described in detail below.

No new matter is added.

Claims 18-24 and 31-36 are presented for reconsideration. Claim 41 is presented for consideration.

Claim Amendments - Clerical Errors

The claims listed below are currently amended to correct clerical errors.

Claim 35 is currently amended to correct a clerical error. A space is added between words "in" and "claim".

Claims 33, 34 and 36 are currently amended to correct a clerical error in formulae XXI** and XXI*: These formulae describe reduction products of the aminoethylindole carbaldehyde of formula XX6 depicted in claim 31. A person skilled in the art knows that reduction of an aldehyde function to the corresponding hydroxymethyl or vinyl function by the process steps described will not result in the concomitant oxidation of the aminoethyl chain in the same compound to an amide chain, but will leave the aminoethyl function unchanged. Support for these amendments, corresponding to these process steps, is found in Instant Examples 14 (process of claim 34) and 15 (process of claim 33).

Claim 36 is currently amended to delete redundant formulae. Formulae II³, XII³ and XIV³ appear in this claim twice and second set of formulae II³, XII³, and XIV³ is deleted accordingly. Additionally, claim 36

is amended to delete formula XIV⁵. The compound(s) of formula XIV⁵ is described and claimed in claim 32.

Additionally, claim 36 is currently amended to insert “XIV⁴” to the list of formulae. The Markush structure for formula XIV⁴ is already listed with the structures. Support for this amendment is found in claim 36 of the preliminary amendment of the instant case, filed on June 16, 2005.

Claim Rejection – 35 USC 112 Second Paragraph

Claims 18 and 32 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Claim 18 recites the language “reducing a compound of the formula II” and the scope of this term is unclear, such that it fails to define the metes and bounds of its limitation. Claim 18 is currently amended to add the term “the indolone moiety” after the word “reducing” in an effort to clarify actually what chemical entity is being reduced.

Claim 32 recites the limitation “R₅” for the definition of formula XIV⁵. There is insufficient antecedent basis for this limitation since it is not defined in claim 1 for formula II. Claim 32 is currently amended to add the definition of R₅ to formula XIV⁵. Support for this amendment is found in originally filed claim 30.

The Applicants therefore aver that the 35 USC 112 second paragraph rejections are addressed and overcome.

Claim Rejections – 35 USC 102(a)

Claim 24 is rejected under 35 USC 102(a) as being anticipated by Albers et al. (Journal of Pharmacy and Pharmacology 54(9), 1265-1270, (2002)).

Claim 24 is currently amended to clarify the method of formulae XIV or XII.

This reference shows a number of reactions wherein the hydrogen on the indole nitrogen is replaced by certain substituted alkyl groups. Claim 24, as presently amended, is dependent on method claim 22, thus embracing the reduction step featured in these claims.

The Applicants therefore aver that the 35 USC 102(a) rejection is addressed and overcome.

Claim Rejections – 35 USC 102(b)

Claim 20 is rejected under 35 USC 102(b) as being anticipated by Speeter (US 2,692,882); Brown et al. (*Journal of Heterocyclic Chemistry* 1969, 6(4), 539-43); and/or Germain et al. (*Chimica Therapeutics* 1973, 8(6), 647-51).

Claim 20 is currently amended to exclude from the definition of R_1 “alkoxy which is unsubstituted or substituted”. Each of these references shows indole compounds substituted on the phenyl moiety by alkoxy or substituted alkoxy (Speeter: benzyloxy). Claim 20, as currently amended, excludes R_1 as alkoxy or substituted alkoxy; therefore, claim 20 is not anticipated by Speeter, Brown et al., and/or Germain.

Claim 23 is rejected under 35 USC 102(b) as being anticipated by Hoshino et al. (*Ann.* 1935, 520, 19-30); and/or Julian et al. (*J. Am. Chem. Soc.* 1948, 70, 174-179).

Claim 23 is currently amended to delete indole compounds which are unsubstituted on the phenyl ring ($n=0$). Additionally, ethoxy is deleted from the definition of R_1 . Each of these references shows indole compounds unsubstituted on the phenyl moiety ($n=0$); Hoshino also shows an indole compound substituted on the phenyl moiety by ethoxy. Claim 23, as currently amended, excludes those indole compounds which are unsubstituted on the phenyl moiety, or substituted on the phenyl moiety by ethoxy; therefore, claim 23 is not anticipated by Hoshino and/or Julian.

Claim 36 is rejected under 35 USC 102(b) as being anticipated by Speeter (US 2,692,882) and Hoshino (*Ann.* 1935, 520, 19-30). Claim 36 is rejected due to compounds XII¹ and XIV¹.

In order to clarify this issue, compounds of formulae II¹, XII¹ and XIV¹ and the associated proviso phrase are deleted from claim 36. These compounds are the subject of newly added claim 41. In new

claim 41, the definition of R₁ is limited to the R₁ definition found in claim 26; wherein R₁ is unsubstituted or substituted aryl or unsubstituted or substituted heterocyclyl.

As noted above, each of these references (Speeter and Hoshino) shows indole compounds substituted on the phenyl moiety by alkoxy or substituted alkoxy. New claim 41 (old claim 36) only includes compounds of formulae II¹, XII¹ and XIV¹ containing 1 or 2 aryl or heterocyclyl substituents on the phenyl moiety (n is 1 or 2, R₁ is aryl or heterocyclyl). Therefore, new claim 41 (old claim 36) is not anticipated by Speeter and/or Hoshino.

The Applicants therefore aver that the 35 USC 102(b) rejections are addressed and overcome.

Claim Objections – Formal Matters

Claim 33 is objected to because the term “by reduction of the compound of formula XX⁶” is unclear. The Examiner suggests the amendment: “by reduction of the aldehyde carbonyl in the compound of formula XX⁶” in order to fully describe the invention.

As suggested by the Examiner, claim 33 is amended to insert the term “aldehyde carbonyl in the” between the words “the” and compound”.

Claims 24, 31, 33 and 34 recite the term “or a method for the synthesis of a tryptamine derivative having pharmaceutically useful properties comprising said process”. This term is objected to as being redundant. Accordingly, claims 24, 31, 33 and 34 are amended to delete the term “having pharmaceutically useful properties”.

The present compounds find utility as intermediates for the preparation of pharmaceutical agents such as Sumatriptan 2, Almotriptan 3, Rizatriptan 4 or Zolmitriptan 5 (see page 1 of the present specification); the term “a method for the synthesis of a tryptamine derivative comprising said process” reflects this fact.

Claims 19, 21 and 22 are objected to as being dependent upon rejected base claim 18, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, claim 18 is rewritten from dependent claim form into an independent claim form. Support for this amendment is found in originally filed claim 1.

The Examiner is kindly requested to reconsider and to withdraw the present rejections.

Applicants submit that the present claims are in condition for allowance and respectfully request that they be found allowable.

Allowable Subject Matter/Allowed Claims

Claim 35 is allowed.

Respectfully submitted,



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NOV 02 2007